

After Recording, Return to:

Gull Industries, Inc.  
PO Box 24687  
Seattle, WA 98124



201204050039  
Skagit County Auditor

4/5/2012 Page 1 of 21 1:47PM

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*(Space above line for Recorder's use only)*

Title of Document: Declaration of Reciprocal Easement Agreement with  
Covenants, Conditions and Restrictions

Grantor: Gull Industries Inc., a Washington corporation

Grantee: Gull Industries, Inc., a Washington corporation

Abbreviated Legal Description: Portion of NE Quarter of Government Lot 1, Section 6,  
Township 34 North, Range 4 East, WM

Complete legal description is on Exhibit A  
attached to this document.

Assessor's Tax Parcel  
Account No(s): P23781, 340406-1-150-0016

City of Burlington Short Plat #BU-SS1-12 Recorded under AFN: 201204050039

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

APR 05 2012

Amount Paid \$ Ø  
Skagit Co. Treasurer  
By MG Deputy

DECLARATION OF  
RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS,  
CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made and entered into this 2<sup>nd</sup> day of April, 2012, by GULL INDUSTRIES, INC., a Washington corporation (the "Declarant").

RECITALS

- A. The Declarant is the owner of that certain real property situated in the City of Burlington, County of Skagit, State of Washington, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Shopping Center").
- B. The Declarant desires to impose certain easements upon the Parcels, and to establish certain covenants, conditions and restrictions with respect to said Parcels, for the mutual and reciprocal benefit and complement of the Shopping Center and the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, the Declarant hereby declares that the Shopping Center and all present and future owners and occupants of the Shopping Center shall be subject to the terms, covenants, easements, restrictions and conditions hereinafter set forth in this Declaration, so that the Shopping Center shall be maintained, kept, sold and used in full compliance with and subject to this Declaration as follows:

DECLARATIONS

- 1. Definitions. For purposes hereof:

(a) The term "Owner" or "Owners" shall mean any fee owner(s) of the Shopping Center, and, in the event of any future subdivision thereof, any fee owner(s) of any portion of the Shopping Center, and any and all successors or assigns of such persons or entities as the owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.



201204050039

Skagit County Auditor

(b) The term "Parcel" or "Parcels" shall mean Parcel A and Parcel B which are shown on the Site Plan attached hereto as Exhibit B and legally described on Exhibits A1 and A2, respectively.

(c) The term "Permittees" shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or occupant(s).

(d) The term "Common Area" shall mean those portions of the Shopping Center that are outside of exterior walls of buildings or other structures from time to time located upon the Shopping Center, and which are either unimproved, or are improved as (without limitation) parking areas, landscaped areas, driveways, roadways, walkways, light standards, curbing, paving, entrances, exits and other similar exterior site improvements.

(e) The term "Walgreen" or "Walgreens" shall mean Walgreen Co., an Illinois corporation (or any of its affiliates, subsidiaries, successors or assigns). As long as the Walgreen Lease is in effect, Walgreen shall be deemed a third party beneficiary to this Declaration. Upon the expiration or sooner termination of the Walgreen Lease (which termination must be as set forth in and pursuant to the terms of the Walgreen Lease), Walgreen shall no longer be deemed to be a third party beneficiary of this Declaration.

(f) The term "Walgreen Lease" or "Walgreens Lease" shall mean the lease of that certain portion of the Shopping Center from Declarant as landlord to Walgreen as tenant, and any amendments, extensions or replacements thereof.

(g) The term "Site Plan" shall mean that site plan of the Shopping Center attached hereto as Exhibit "B" and by reference made a part hereof. Except as may be otherwise provided in this Declaration, the Site Plan is for identification purposes only.

(h) The term "Driveway" shall mean those driveways and related driveway improvements, paving, curbing, entrances and exits, in the locations on the Site Plan as shown cross-hatched or otherwise marked on the Site Plan.

## 2. Easements.

2.1 Grant of Reciprocal Easements. Subject to any express conditions, limitations or reservations contained herein, the Declarant hereby grants, establishes, covenants that the Shopping Center, and all Owners and Permittees thereof, shall be benefited and burdened by the following nonexclusive, perpetual and reciprocal easements which are hereby imposed upon the



Shopping Center and all present and future Owner's and Permittees of the Shopping Center:

(a) An easement for reasonable access, ingress and egress over all paved driveways, roadways and walkways as presently or hereafter constructed and constituting a part of the Common Area including, without limitation, the Driveway, so as to provide for the passage of motor vehicles and pedestrians between all portions of the Common Area intended for such purposes, and to and from all abutting streets or rights of way furnishing access to the Shopping Center;

(b) An easement for the parking of vehicles in the parking areas designated as part of the Common Area, as such parking areas are indicated on the Site Plan and as the same may be modified or removed from time to time by the Owner upon which the parking areas are located (the "Parking Easement"), provided that the parking areas immediately adjacent to the Walgreen building shall not be modified or removed without the consent of Walgreen during the continuance of the Walgreen Lease or if Walgreen shall become an Owner of the Shopping Center. The Parking Easement is for customer parking in connection only with the businesses operated from time to time within the Shopping Center. In no event shall the Parking Easement be used for delivery or truck parking (except temporary parking incidental to deliveries made during the normal course of business operations), overnight parking, storage or other similar parking purposes that shall constitute an unreasonably prolonged use of the Parking Easement.

(c) An easement upon, under, over, above and across the Common Area of for the discharge, drainage, use, detention, and retention of storm water runoff in the manner, and to install, maintain, repair and replace storm water collection, retention, detention and distribution lines, conduits, pipes and other apparatus under and across those portions of the Common Area. The storm water detention areas, if any, indicated on the Site Plan, and all lines, conduits, pipes and other apparatus for water drainage, and all storage systems necessary in connection therewith, shall be hereinafter called the "Water Detention and Drainage Facilities". The easement granted herein shall include the right of reasonable ingress and egress with respect to the Water Detention and Drainage Facilities as may be required to maintain and operate the same).

(d) An easement under and across those parts of the Common Area that are not within any permissible building areas shown on the Site Plan, for the installation, maintenance, repair and replacement of water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, gas mains and other utility facilities necessary for the orderly development and operation of the Common Area and each building from time to time located within the Shopping Center; provided that the rights



granted pursuant to such easements shall at all times be exercised in such a manner as not to materially interfere with the normal operation of business conducted therein. All such systems, structures, mains, sewers, conduits, lines and other public utilities shall be installed and maintained below the ground level or surface of the Shopping Center (except for such parts thereof that cannot and are not intended to be placed below the surface, such as transformers and control panels, which shall be placed in such locations as approved by the Declarant). Notwithstanding anything in this paragraph 2.1(d) to the contrary, as of the date of this Declaration, Declarant anticipates the Shopping Center will contain an easement within the Common Area for a twelve (12) inch sanitary sewer main from Burlington Boulevard to the Shopping Center. The parties hereto consent to such an easement and to any future easements within the Common Area for utility facilities serving the Shopping Center or a Permittee thereof and any dedications of utility facilities and/or related easements to municipal or governmental entities having jurisdiction over the Shopping Center.

(e) An easement within the Shopping Center for the construction, reconstruction, replacement, operation, maintenance and repair of a sign or signs of a structure and a size and shape acceptable to Walgreen and pursuant to the Walgreen Lease. After the expiration or termination of the Walgreen Lease, as is acceptable to the Owner(s) of the Shopping Center (such sign(s) shall be referred to herein as the "Shopping Center Signs"). The easement granted herein shall be over, under, upon and across those portions of the Shopping Center as are reasonably necessary to install, replace, maintain, repair and operate the Shopping Center Signs and a utility line(s), pursuant to the terms and conditions set forth in paragraph 2.1(d) above, in order to provide such Shopping Center Signs and all panels thereon with power to illuminate the same. Once constructed, the Owners of the Shopping Center, each with respect to such Owner's Parcel, shall thereafter maintain, operate, illuminate and repair the Shopping Center Signs and utility lines; provided, however, that each Permittee entitled to display a sign panel on a Shopping Center Sign shall, at their own cost and expense, install, replace, maintain, repair, and operate their respective sign panels. No other Shopping Center signs, structures, landscaping or improvements shall be placed or maintained within the Shopping Center which shall obstruct or impair the visibility of the Shopping Center Signs from adjacent streets and roads (as reasonably determined by Walgreen).

**2.2 Indemnification.** Each Owner having rights with respect to an easement granted hereunder shall indemnify and hold each other Owner (including Walgreen, in the case Walgreen becomes an Owner) harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner, its contractors, employees, agents, or others acting on behalf of such Owner.



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2.3 Access Opening. The opening(s) and access point(s) contemplated within the Shopping Center for use of the Driveway, as shown on the Site Plan, and such openings and access points within the Shopping Center for use of the Driveway, as contemplated pursuant to paragraph 2.1(a) above, are hereinafter called the "Access Openings." The Access Openings shall in no event be blocked, closed, altered, changed or removed and shall at all times remain in place as shown on the Site Plan. There shall be maintained between the Access Openings a smooth and level grade transition to allow the use of the Driveway for pedestrian and vehicular ingress and egress as set forth in paragraph 2.1 above. Except with respect to the Access Openings or any Common Area, each Owner shall be permitted to maintain a fence, curbing, landscaping or other improvements along the exterior boundary line(s) of the Shopping Center.

Notwithstanding the foregoing, no changes to any roadways outside the peripheral boundaries of the Shopping Center, including, without limitation, alterations to or elimination of the left turn into the Shopping Center from Burlington Boulevard (including restricting the same to right turn only), shall be considered a violation of this paragraph 2.3 or any other representations or conditions of this Declaration.

2.4 Reasonable Use of Easements.

(a) The easements herein above granted shall be used and enjoyed by each Owner and its Permittees in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Parcel, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

(b) Once the Water Detention and Drainage Facilities are installed pursuant to the easements granted in paragraph 2.1(c) hereof, and/or utility lines, systems and equipment are installed pursuant to the easements granted in paragraph 2.1(d) hereof, no permanent building, structures, trees or other improvements inconsistent with the use and enjoyment of such easements (excluding improvements typically found in common areas of shopping centers) shall be placed over or permitted to encroach upon such water detention, drainage and utility installations. Each Owner served by such installations shall not unreasonably withhold its consent to the reasonable relocation of such installations requested by an Owner of a Parcel where such installations are located, at such requesting Owner's sole cost and expense, so long as water detention and drainage services or utility services, as applicable, to the other Owner's Parcel are not unreasonably interrupted and the remaining provisions of this paragraph 2.4 are complied with from time to time.

(c) Once commenced, any construction undertaken in reliance upon



an easement granted herein shall be diligently prosecuted to completion, so as to minimize any interference with the business of any other Owner and its Permittees. Except in cases of emergency, the right of any Owner to enter upon a Parcel of another Owner for the exercise of any right pursuant to the easements set forth, or to prosecute work on such Owner's own Parcel if the same interferes with utility or drainage easements or easements of ingress, egress or access to or in favor of another Owner's Parcel, shall be undertaken only in such a manner so as to minimize any interference with the business of the other Owner and its Permittees. In such case, no affirmative monetary obligation shall be imposed upon the other Owner (and/or, during the continuance of the Walgreen Lease), Walgreen and the Owner undertaking such work shall with due diligence repair at its sole cost and expense any and all damage caused by such work and restore the affected portion of the Parcel upon which such work is performed to a condition which is equal to or better than the condition which existed prior to the commencement of such work. In addition, the Owner undertaking such work shall pay all costs and expenses associated therewith and shall indemnify and hold harmless the other Owner(s) and its Permittees from all damages, losses, liens or claims attributable to the performance of such work. Notwithstanding the foregoing or anything contained in this Declaration to the contrary, no Owner shall undertake any work described in this paragraph (except normal minor repairs in the ordinary course which do not interfere with the business of any other Owner and its Permittees) which is not of an emergency nature during the months of November or December during the continuance of the Walgreen Lease unless Walgreen shall consent thereto.

### 3. Maintenance.

3.1 General. Until such time as improvements are constructed on a Parcel, the Owner thereof shall maintain the same in a clean and neat condition and shall take such measures as are necessary to control grass, weeds, blowing dust, dirt, litter or debris.

3.2 Buildings and Appurtenances Thereto. Subject to any reimbursements as may be outlined in a lease or other written agreement between an Owner and such Owner's Permittee's, each Owner covenants to keep and maintain, at its sole cost and expense, the building(s) located from time to time on its respective Parcel in good order, condition and repair. Once constructed, in the event of any damage to or destruction of a building on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, with due diligence either (a) repair, restore and rebuild such building to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Declaration), or (b) demolish and remove all portions of such damaged or destroyed building then remaining, including the debris resulting therefrom, and otherwise clean and restore the area affected by such casualty to a level, graded condition. Nothing contained in subparagraph 3.2(b) shall be deemed to allow an Owner to avoid a more



stringent obligation for repair, restoration and rebuilding contained in a lease or other written agreement between an Owner and such Owner's Permittee. All buildings within the Shopping Center shall be one story in height and shall comply with applicable governmental parking ratio requirements such that the Shopping Center shall be self sufficient for vehicular parking.

**3.3 Common Area.** Subject to Section 3.5 below, and subject to any reimbursements as may be outlined in a lease or other written agreement between an Owner and such Owner's Permittees, each Owner of the Shopping Center shall at all times, with respect to such Owner's Parcel, during the term hereof operate, maintain, repair, insure, adequately light when necessary during business hours (in the event Walgreen remains open for business during hours or days that all or some of the other Permittees of the Shopping Center are not also open for business, the Owners of the Shopping Center shall nonetheless provide all of the services outlined in Section 3.3 during such hours and days) and for thirty (30) minutes thereafter, clean, promptly remove snow and ice from, supervise (including the use of security personnel to the extent the Owners of the Shopping Center determines that the use of such personnel are reasonably necessary), and keep available the parking areas as shown on the Site Plan (the "Parking Areas") which Parking Areas shall provide for the parking of at least fifty nine (59) automobiles, as well as the service and receiving areas, sidewalks, curbs, roadways, and other facilities appurtenant thereto and the other common areas of the Shopping Center (together, the "Common Areas"). The Parking Areas and Common Areas shall be for the free and exclusive use of customers, invitees, and employees of Permittees of the Shopping Center. Maintenance of Common Area shall include, without limitation, maintaining and repairing all sidewalks, curbs, and the surface of the parking and roadway areas, removing all papers, debris and other refuse from and periodically sweeping all parking and road areas to the extent necessary to maintain the same in a clean, safe and orderly condition, removing snow and ice from all sidewalks and the surface of the parking and roadway areas, maintaining appropriate lighting fixtures for the parking areas and roadways, maintaining marking, directional signs, lines and striping as needed, maintaining landscaping, maintaining signage in good condition and repair, and performing any and all such other duties as are necessary to maintain such Common Area in a clean, safe and orderly condition. Except as otherwise expressly provided in this Declaration, once constructed, in the event of any damage to or destruction of all or a portion of the Common Area, the Owner of such Parcel shall with due diligence repair, restore and rebuild such Common Area to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Declaration). Each Owner reserves the right to alter, modify, reconfigure, relocate and/or remove the Common Areas or building areas on its Parcel, subject to the following conditions: (i) the express written consent of Walgreen (during the continuance of the Walgreen Lease); (ii) the reciprocal easements between the Parcels pursuant to paragraph 2.1(a) shall not be closed or materially impaired; (iii) the Driveway and ingress and egress thereto, and to and from the Parcels and adjacent streets and roads, shall not be so altered, modified, relocated, blocked and/or removed without the express written consent of all Owners and Walgreen





(during the continuance of the Walgreen Lease); (iv) the same shall not violate any of the provisions and easements granted in paragraph 2; and (v) the requirements of paragraph 3.2 of this Declaration shall be complied with from time to time.

**3.4 Utilities.** Each Owner shall at all times during the term hereof construct, operate and maintain or cause to be constructed, operated and maintained, in good order, condition and repair any utility or other installations serving the Parcel of such Owner and from time to time existing on the Parcel of another Owner pursuant to an easement described herein.

**3.5 Right to Assign.** The Owner shall be entitled to delegate any of its maintenance obligations under this Declaration by lease or other agreement or instrument; provided, however, that any such delegation shall not relieve the Owner of its maintenance obligations under this Declaration, and in the event any designee shall fail to perform such maintenance obligations, the Owner shall be responsible to perform such obligations.

**4. Construction of Improvements.** Every building (including its appurtenant Common Area improvements), now or in the future constructed on or within the Shopping Center shall be constructed, operated and maintained so that the same is in compliance with all applicable governmental requirements. The Driveway shall be constructed and completed at the same time the Walgreen building is constructed and completed pursuant to the terms of the Walgreen Lease (in accordance with plans approved by Walgreen under the Walgreen Lease).

**5. Restrictions.**

**5.1 General.** Each Parcel shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of a Parcel which is illegal. In addition to the foregoing, throughout the term of this Declaration, it is expressly agreed that neither all nor any portion of any Parcel shall be used, directly or indirectly, for purposes of a cocktail lounge, bar, any other establishment that sells alcoholic beverages for on premises consumption (except as provided above as a restaurant), disco, bowling alley, pool hall, billiard parlor, skating rink, roller rink, amusement arcade, a theater of any kind, children's play or party facility, adult book store, adult theatre, adult amusement facility, any facility selling or displaying pornographic materials or having such displays, second hand store, odd lot, closeout or liquidation store, auction house, flea market, educational or training facility (including, without limitation, a beauty school, barber college, school or other facility catering primarily to students or trainees rather than customers), gymnasium, sport or health club or spa, blood bank, massage parlor, funeral home, sleeping quarters or lodging, the outdoor housing or raising of animals, the sale, leasing or storage of automobiles, boats or other vehicles, any industrial use (including, without limitation, any



manufacturing, smelting, rendering, brewing, refining, chemical manufacturing or processing, or other manufacturing uses), any mining or mineral exploration or development except by non-surface means, a car wash, a carnival, amusement park or circus, an assembly hall, off track betting establishment, bingo hall, any use involving the use, storage, disposal or handling of hazardous materials or underground storage tanks, any use which may materially or adversely affect the water and sewer services supplied to the Walgreen building, a church, temple, synagogue, mosque, or other house of worship, any facility for the sale of paraphernalia for use with illicit drugs, office use (except incidental to a retail use and/or so called "retail office uses" such as HR Block), more than two (2) restaurants within the Shopping Center, which together exceed a total of 2,200 leasable square feet of restaurant use (for the purposes of this Section 5.1 an accommodation food user (i.e. that does not offer full meals, but rather offers a limited product line such as cookies, bagels, cinnamon rolls, donuts, pastries, candy, ice cream, frozen yogurt, juice drinks, smoothies, coffee shops, bakeries, delicatessens, or the like; and provided further, so called accommodation food user shall in no event include the operation of a so called "convenience store" which is prohibited) shall not be considered a "restaurant"), or any use which creates a nuisance.

**5.2 Additional Shopping Center Restrictions.** Each Owner covenants and agrees that, during the continuance of this Declaration, no additional property which any Owner, directly or indirectly, may now or hereafter own, lease or control, and which is contiguous to, or which is within five hundred (500) feet of any boundary of the Shopping Center including all or any portion of any Parcel (the "Contiguous Property"), will be used for any one or combination of the following: (i) the operation of a drug store or a so-called prescription pharmacy or prescription ordering, processing or delivery facility, whether or not a pharmacist is present at such facility, or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind; (ii) a medical diagnostic lab or the provision of treatment services (other than part of a medical, dental, physician, surgical, or chiropractic office(s), which such office(s) shall not be restricted by this subclause (ii)); (iii) the sale of so-called health and beauty aids or drug sundries; (iv) the operation of a business in which photofinishing services (including, without limitation, digital photographic processing or printing, or the sale of any other imaging services, processes or goods) or photographic film are offered for sale; (v) the operation of a business in which greeting cards or gift wrap are offered for sale; and (vi) the operation of a business in which prepackaged food items for off premises consumption are offered for sale. The foregoing shall not, however, preclude a tenant of Landlord's Property from the uses described in items (ii), (iii), (iv), (v), or (vi) so long as such uses are incidental to such tenant's primary business in Landlord's Property. For the purposes of this Paragraph 5.2, "incidental" shall mean such uses that do not exceed one hundred (100) square feet of retail floor space (except for photo finishing services, which use(s) shall not exceed twenty five (25) square feet of retail floor space)). In the event that a Permittee files suit against any party to enforce the foregoing restrictions, the Owner against whom enforcement is



sought agrees to cooperate fully with such Permittee in the prosecution of any such suit, and reimburse Permittee for all of the attorneys' fees and court costs incurred by Permittee in connection with such suit, notwithstanding its resolution. For purposes hereof "contiguous" shall mean property that is either adjoining the Shopping Center or separated from the Shopping Center only by a public or private street, alley or right-of-way. The restrictions contained in clause (vi) of this Paragraph 5.2 shall not prohibit the sale of prepared food items for off premises consumption by a restaurant, sandwich shop or so called "accommodation" food user (ie that does not offer full meals, but rather offers a limited product line such as cookies, bagels, cinnamon rolls, donuts, pastries, candy, ice cream, frozen yogurt, juice drinks, smoothies, coffee shops, bakeries, delicatessens, or the like; and provided further, a so called "accommodation" food user shall in no event include the operation of a so called "convenience store" which is prohibited).

5.3 Drive-Thru. No facility within the Shopping Center for vehicular drive-up or drive-through, in which the stopping or standing of motor vehicles in line at a location for dropoff and/or pickup is intended, (as, for example, at a restaurant, car wash or bank), shall be assigned, constructed, used or operated in any manner such that motor vehicles in line at such facility stop or stand in a manner that impedes access to the building for Walgreen and/or the Driveway, or otherwise interfere with the normal pattern and flow of pedestrian or vehicular traffic within the Shopping Center and/or the Driveway. Nothing contained herein shall be deemed to affect the drive-through serving the building for Walgreen, which is hereby expressly approved. In addition, valet parking within the Shopping Center, in which the stopping or standing of motor vehicles at a location for drop off and/or pick up of passengers is intended, shall not be operated in any manner such that motor vehicles shall stop or stand in a manner that impedes access to the building for Walgreen and/or the Driveway, or otherwise interfere with the normal pattern and flow of pedestrian or vehicular traffic within the Shopping Center and/or the Driveway.

6. Insurance. Throughout the term of this Declaration, each Owner shall carry special form coverage insurance covering the improvements and Common Area located on such Owner's Parcel to the extent of not less than 100% of replacement value, with companies which are authorized to do business in the State in which the Shopping Center is located and are governed by the regulatory authority which establishes maximum rates in the vicinity. Each Owner shall also procure and maintain general and/or comprehensive public liability and property damage insurance against claims for personal injury (including contractual liability arising under the indemnity contained in paragraph 2.2 above), death, or property damage occurring upon such Owner's Parcel, with single limit coverage of not less than \$1,000,000.00, and shall cover liability for property damage in any one accident, mishap or casualty in the amount of not less than \$100,000.00, and naming each other Owner and Walgreen during the continuance of the Walgreen Lease (provided the Owner obtaining such insurance has been supplied with the name of such other Owner in the event of a change thereof) as additional insureds. Walgreen (whether as tenant under the Walgreen Lease or in the event Walgreen becomes an Owner of a Parcel) may



elect to self insure and/or carry insurance required hereunder under master or blanket policies of insurance pursuant to the terms of the Walgreen Lease.

7. Taxes and Assessments. Subject to any reimbursements as may be outlined in a lease or other written agreement between an Owner and such Owner's Permittee's, each Owner shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Parcel.
8. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of the Shopping Center. No easements except those expressly set forth in paragraph 2 shall be implied by this Declaration.
9. Remedies and Enforcement.

9.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by any Owner or its Permittees of any of the terms, covenants, restrictions or conditions hereof, the other Owner(s) and during the continuance of the Walgreen Lease, Walgreen, shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance. During the continuance of the Walgreen Lease, if any Owner of the Shopping Center fails or refuses to commence and thereafter diligently pursue enforcement of compliance with this Declaration or fails or refuses to cure a breach or default of this Declaration, then within seven (7) days following receipt of written demand from Walgreen to such Owner, Walgreen shall have the right, but not the obligation, to enforce this Declaration and/or to cure a breach or default hereunder, which enforcement or cure shall be accepted by any Permittees and any other Owner.

9.2 Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting Owner to cure a breach of this Declaration within thirty (30) days following written notice thereof by an Owner or during the continuance of the Walgreen Lease, Walgreen, (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the defaulting Owner commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), Walgreen or any Owner shall have the right to perform such obligation contained in this Declaration on behalf of such defaulting Owner and be reimbursed by such defaulting Owner upon demand for the reasonable costs thereof together with interest per annum at the prime rate charged from time to time by Wells Fargo Bank (its successors or assigns), plus two percent (2%) (not to exceed the maximum rate of interest allowed by law). Notwithstanding the foregoing, in the event of (i) an emergency, (ii) blockage or material impairment of the easement rights, and/or (iii) the unauthorized parking of vehicles, an Owner or during the continuance of the Walgreen Lease, Walgreen, may immediately cure the same and be reimbursed by the other Owner upon demand for the reasonable cost



thereof together with interest per annum at the prime rate, plus two percent (2%), as above described.

9.3 Lien Rights. Any claim for reimbursement, including interest as aforesaid, and all costs and expenses including reasonable attorneys' fees awarded to any Owner (or to Walgreen in connection with the exercise of its rights set forth in paragraphs 9.1 and/or 9.2 above) in enforcing any payment in any suit or proceeding under this Declaration shall be assessed against the defaulting Owner in favor of the prevailing party and shall constitute a lien (the "Assessment Lien") against the Parcel of the defaulting Owner until paid, effective upon the recording of a notice of lien with respect thereto in the Office of the County Recorder of Skagit County; provided, however, that any such Assessment Lien shall be subject and subordinate to (i) liens for taxes and other public charges which by applicable law are expressly made superior, (ii) all liens recorded in the Office of the County Recorder of Skagit County prior to the date of recordation of said notice of lien, and (iii) all leases entered into, whether or not recorded, prior to the date of recordation of said notice of lien. All liens recorded subsequent to the recordation of the notice of lien described herein shall be junior and subordinate to the Assessment Lien. Upon the timely curing by the defaulting Owner of any default for which a notice of lien was recorded, the party recording the same shall record an appropriate release of such notice of lien and Assessment Lien within thirty (30) days.

9.4 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

9.5 No Termination For Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any Parcel made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Parcel covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

9.6 Irreparable Harm. In the event of a violation or threat thereof of any of the provisions of paragraphs 2 and/or 5 of this Declaration, each Owner agrees that such violation or threat thereof shall cause the nondefaulting Owner and/or its Permittees to suffer irreparable harm and such nondefaulting Owner and its Permittees shall have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of paragraphs 2 and/or 5 of this Declaration, the nondefaulting Owner and during the continuance of the Walgreen Lease, Walgreen, in addition to all remedies available at law or otherwise under this Declaration, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of paragraphs 2 and/or 5 of this Declaration.

10. Term. The easements, covenants, conditions and restrictions contained in this Declaration shall be effective commencing on the date of recordation of this



Declaration in the office of the Skagit County Recorder and shall remain in full force and effect thereafter during the continuance of the Walgreen Lease, unless this Declaration is modified, amended, canceled or terminated by the written consent of all then record Owners of the Shopping Center in accordance with paragraph 11.2 hereof.

11. Miscellaneous.

11.1 Attorneys' Fees. In the event a party (including Walgreen) institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

11.2 Amendment.

(a) The parties agree that the provisions of this Declaration may be modified or amended, in whole or in part, or terminated prior to the expiration of the Walgreen Lease, only by the written consent of all record Owners of the Shopping Center, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the official records of the County Recorder of Skagit County, Washington.

(b) Notwithstanding subparagraph 11.2(a) above to the contrary, no termination of this Declaration, and no modification or amendment of this Declaration shall be made nor shall the same be effective unless the same has been expressly consented to in writing by Walgreen (during the continuance of the Walgreen Lease).

11.3 Consents. Wherever in this Declaration the consent or approval of an Owner is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of an Owner or Walgreen under this Declaration, to be effective, must be given, denied or conditioned expressly and in writing. During the continuance of the Walgreen Lease, any consent by an Owner, to be effective, shall also require the consent of Walgreen. Any consent of Walgreen shall not be unreasonably withheld, conditioned, or delayed.

11.4 No Waiver. No waiver of any default of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such default.

11.5 No Agency. Nothing in this Declaration shall be deemed or construed by either party or by any third person to create the relationship of principal and



agent or of limited or general partners or of joint venturers or of any other association between the parties.

**11.6 Covenants to Run with Land.** It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

**11.7 Grantee's Acceptance.** The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original party or from a subsequent owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

**11.8 Separability.** Each provision of this Declaration and the application thereof to a Parcel are hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the then current Owner(s) shall promptly cause such legal description to be prepared. Ownership of both Parcels by the same person or entity shall not terminate this Declaration nor in any manner affect or impair the validity or enforceability of this Declaration.

**11.9 Time of Essence.** Time is of the essence of this Declaration.

**11.10 Entire Agreement.** This Declaration contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

**11.11 Notices.** Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party and during the continuance of the Walgreen Lease, Walgreen, may change from time to time their respective address for notice hereunder by like notice to the other party and Walgreen. Notice given by any Owner hereunder to be effective shall also simultaneously be delivered to Walgreen (during the continuance of the

4/5/2012 Page 15 of 21 1:47PM

201204050039  
Skagit County Auditor



Walgreen Lease). The notice addresses of the initial Owners and Walgreen are as follows:

Walgreen:

Walgreens  
Attention: Real Estate Law Department  
Mail Stop No. 1420  
104 Wilmot Road  
Deerfield, Illinois 60015  
Re: Store # 11300

Owner:

Gull Industries, Inc.  
PO Box 24687  
Seattle, WA 98124

11.12 Governing Law. The laws of the State in which the Parcels are located shall govern the interpretation, validity, performance, and enforcement of this Declaration.

11.13 Estoppel Certificates. Each Owner, within thirty (30) day of its receipt of a written request from the other Owner(s) or during the continuance of the Walgreen Lease, Walgreen, shall from time to time provide the requesting Owner or Walgreen, a certificate binding upon such Owner stating: (a) to the best of such Owner's or Walgreen's (during the continuance of the Walgreen Lease) knowledge, whether any party to this Declaration is in default or violation of this Declaration and if so identifying such default or violation; and (b) that this Declaration is in full force and effect and identifying any amendments to the Declaration as of the date of such certificate.

11.14 Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Parcel, the parties agree that this Declaration shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

11.15 Mortgage Subordination. Any mortgage or deed of trust affecting any portion of any Parcel shall at all times be subject and subordinate to the terms of this Declaration, and any party foreclosing any such mortgage or deed of trust, or acquiring title by deed in lieu of foreclosure or trustee sale, shall acquire title subject to all the terms and conditions of this Declaration.



201204050039  
Skagit County Auditor

4/5/2012 Page 16 of 21 1:47PM



IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date first written above.

GULL INDUSTRIES, INC., a Washington corporation

By: [Signature]

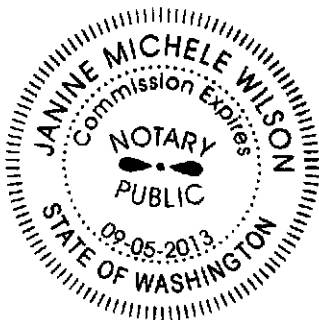
Its: SR VP Real Estate

STATE OF Washington )

COUNTY OF King ) ss. )

On this 2 day of April, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared William Low to me known as, or providing satisfactory evidence that he/she is the Senior Vice President, Real Estate of Gull Industries, Inc. that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute said instrument on behalf of said company.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Janine Michele Wilson  
NOTARY PUBLIC in and for the State of  
Washington residing at Kent  
My commission expires 9/5/13  
Print Name: Janine Michele Wilson

- Exhibit "A" - Legal Description of Shopping Center
- Exhibit "A1" - Legal Description of Parcel A
- Exhibit "A2" - Legal Description of Parcel B
- Exhibit "B" - Site Plan. Identify Shopping Center, the Driveway, and drainage or utility easement areas (if required).



201204050039

Skagit County Auditor

Exhibit A  
Legal Description of Shopping Center

UNRECORDED  
THAT PORTION OF GOVERNMENT LOT 1, SECTION 6, TOWNSHIP 34 NORTH, RANGE 4 EAST, WM DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 6; THENCE SOUTH 0° 00' 04" EAST, ALONG THE EAST LINE OF SAID SECTION 6 A DISTANCE OF 326.89 FEET TO THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF GOVERNMENT LOT 1 OF SAID SECTION 6; THENCE NORTH 89° 25' 07" WEST, ALONG THE SOUTH LINE THEREOF, 40.00 FEET TO THE WEST LINE OF THE EAST 40.00 FEET OF SAID SECTION 6 AND THE TRUE POINT OF BEGINNING; THENCE NORTH 0° 00' 04" WEST, ALONG SAID LINE, 255.39 FEET TO THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL AS CONVEYED TO THE CITY OF BURLINGTON BY DEED RECORDED UNDER AUDITORS FILE NO. 8810100024, RECORDS OF SKAGIT COUNTY WASHINGTON; THENCE NORTH 89° 24' 58" WEST, ALONG THE SOUTH LINE OF SAID PARCEL, 7.00 FEET TO AN ANGLE POINT IN SAID PARCEL; THENCE CONTINUE ALONG SAID PARCEL THE FOLLOWING COURSES, NORTH 0° 00' 04" WEST 11.82 FEET; THENCE ALONG A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST WHOSE RADIUS POINT BEARS SOUTH 50° 51' 12" WEST A DISTANCE OF 49.00 FEET THROUGH A CENTRAL ANGLE OF 50° 15' 59" AN ARC DISTANCE OF 42.99 FEET; THENCE NORTH 89° 24' 58" WEST ALONG THE SOUTH LINE OF SAID PARCEL RECORDED UNDER AFN 8810100024 A DISTANCE OF 200.50 FEET TO THE WEST LINE OF THAT CERTAIN PARCEL AS DESCRIBED UNDER DOCUMENT RECORDED UNDER AUDITORS FILE NO. 8604010050; THENCE SOUTH 0° 00' 04" EAST, ALONG THE WEST LINE OF SAID PARCEL AND SAID PARCEL EXTENDED, 284.90 FEET TO THE SOUTH LINE OF THE SOUTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF GOVERNMENT LOT 1 OF SAID SECTION 6; THENCE SOUTH 89° 25' 07" EAST, ALONG SAID LINE, 245.00 FEET TO THE TRUE POINT OF BEGINNING.

(ALSO KNOWN AS PARCEL "A" AFTER ADJUSTMENT, CITY OF BURLINGTON BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NUMBER 201012070029

CONTAINING 69,387 SQUARE FEET, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON

(LEGAL DESCRIPTION IS BASED ON TITLE REPORT FROM CHICAGO TITLE, ORDER NUMBER 620014268, DATED NOVEMBER 3, 2011)



201204050039  
Skagit County Auditor

4/5/2012 Page 18 of 21 1:47PM

**Exhibit A1**  
**Legal Description of Parcel A**

Parcel "A" of the City of Burlington Short Plat No. BU-SS1-12, being a portion of the Northeast Quarter of Government Lot 1 of Section 6, Township 34 North, Range 4 East, WM.



201204050039  
Skagit County Auditor

4/5/2012 Page 19 of 21 1:47PM

**Exhibit A2  
Legal Description of Parcel B**

**Parcel "B" of the City of Burlington Short Plat No. BU-SS1-12, being a portion of the Northeast Quarter of Government Lot 1 of Section 6, Township 34 North, Range 4 East, WM.**



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Skagit County Auditor

4/5/2012 Page 20 of 21 1:47PM

